STATE OF MICHIGAN

COURT OF APPEALS

In the Matter of P.J. BARNES, Minor.

UNPUBLISHED
January 28, 2014

No. 317603
Cass Circuit Court
Family Division
LC No. 12-000046-NA

Before: HOEKSTRA, P.J., and MARKEY and RONAYNE KRAUSE, JJ.

PER CURIAM.

Respondent-father appeals as of right the trial court's order terminating his parental rights to the minor child under MCL 712A.19b(3)(c)(*i*) (conditions of adjudication continue to exist) and (g) (failure to provide proper care and custody). We affirm.

"In order to terminate parental rights, the trial court must find by clear and convincing evidence that at least one of the statutory grounds for termination in MCL 712A.19b(3) has been met." *In re VanDalen*, 293 Mich App 120, 139; 809 NW2d 412 (2011). "We review the trial court's determination for clear error." *Id.* "A finding is clearly erroneous if, although there is evidence to support it, we are left with a definite and firm conviction that a mistake has been made." *In re HRC*, 286 Mich App 444, 459; 781 NW2d 105 (2009).

We first find that the trial court did not clearly err in finding that petitioner established by clear and convincing evidence a statutory ground for termination under MCL 712A.19b(3)(g). Termination is proper under MCL 712A.19b(3)(g) when "[t]he parent, without regard to intent, fails to provide proper care or custody for the child and there is no reasonable expectation that the parent will be able to provide proper care and custody within a reasonable time considering the child's age." This Court has previously found that termination was proper under MCL 712A.19b(3)(g) where there was "insufficient evidence to conclude that" the parent would remain "sober in the future" and the parent did not have housing for their children at the time of termination. *In re CR*, 250 Mich App 185, 195-196; 646 NW2d 506 (2002).

The minor child was removed from respondent's care because he could not provide proper care, and the record supports that he remained unable or unwilling to do so throughout the proceeding. Respondent had a long history of abusing alcohol and controlled substances, including cocaine, crack, opiates and methamphetamine. After the proceeding began, he acquired a medical marijuana card and did not begin submitting to substance screenings until over two months after he was ordered to do so. From August 2012 through January 2013, respondent tested positive for alcohol, submitted diluted specimens, and failed to appear for

substance screenings 30 times. Respondent left inpatient treatment against medical advice after less than one week at the facility. Between February and June 2013, respondent missed three screenings and submitted one diluted specimen. Respondent used alcohol less than two months before termination and after having completed substance abuse counseling. At the time of the July 2013 termination, respondent was unable to handle unforeseen changes in circumstances and had a history of turning to substances when he became stressed. He also had a history of using profanity towards his caseworker. At the time of termination, his recently purchased home was being remodeled, and he did not have an appropriate place for the minor child to stay while his home was being completed. The record clearly supports that respondent could not provide proper care and custody at the time of termination because he had not resolved his substance abuse disorder and did not have appropriate housing for the minor child. *In re CR*, 250 Mich App at 195-196.

While respondent argues on appeal that he should have been given additional time, the record clearly establishes that there was no reasonable likelihood that respondent would "be able to provide care or custody within a reasonable time considering the child's age." MCL 712A.19b(3)(g). Respondent demonstrated a lack of commitment throughout a majority of the proceedings and had made little progress at the time of termination as a result. Moreover, the three-year-old minor child had been in care for 15 months. The trial court's finding that termination was proper pursuant to MCL 712A.19b(3)(g) does not leave us with a definite and firm conviction that a mistake has been made. *In re HRC*, 286 Mich App at 459. Because we have concluded that at least one ground for termination existed, we need not consider the additional grounds upon which the trial court based its decision. *Id.* at 461.

In reaching our conclusion, we reject respondent's argument that termination of his parental rights was attributable to deficient efforts by petitioner. We review a trial court's finding that a petitioner made reasonable efforts toward reunification for clear error. *In re Fried*, 266 Mich App 535, 542-543; 702 NW2d 192 (2005). "When a child is removed from a parent's custody, the agency charged with the care of the child is required to report to the trial court the efforts made to rectify the conditions that led to the removal of the child." *In re Plump*, 294 Mich App 270, 272; 817 NW2d 119 (2011). "While the DHS has a responsibility to expend reasonable efforts to provide services to secure reunification, there exists a commensurate responsibility on the part of [the parent] to participate in the services that are offered." *In re Frey*, 297 Mich App 242, 248; 824 NW2d 569 (2012).

While the record establishes that respondent was referred to and accessed a multitude of services during his involvement in the proceeding, he argues that petitioner failed to provide sufficient services to secure reunification because it did not provide him with parenting and anger management classes. The record establishes that petitioner referred respondent to anger management classes, but he failed to complete them. Nevertheless, he also acquired anger management services through group therapy. While respondent was not referred to parenting classes, the record supports that his ability to effectively parent largely depended on him maintaining sobriety, which he did not do throughout a majority of the proceedings. Further, respondent failed to take advantage of all of the parenting time that he was offered. Respondent's failure to hone his parenting skills was attributable to his lack of commitment. The trial court's finding that reasonable efforts were made to preserve and reunify the family does not

leave us with a definite and firm conviction that a mistake has been made. *In re HRC*, 286 Mich App at 459.

Respondent also argues that termination of his parental rights was not in the minor child's best interests. "Once a statutory ground for termination has been proven, the trial court must find that termination is in the child's best interests before it can terminate parental rights." *In re Olive/Metts*, 297 Mich App 35, 40; 823 NW2d 144 (2012); MCL 712A.19b(5). We review a trial court's finding that termination is in the child's best interests for clear error. *In re HRC*, 286 Mich App at 459. In *In re VanDalen*, 293 Mich App at 141, when reviewing best interests, this Court looked at evidence that the children were not safe with the parents, were thriving in foster care, and that the foster care home could provide stability and permanency. A trial court may also consider whether the parent has a healthy bond with the children when determining best interests. *In re CR*, 250 Mich App at 196-197.

Here, the three-year-old minor child required permanence and stability within a short period of time to aid in her development and emotional wellbeing. Respondent was unable or unwilling to provide this. He also did not have a healthy parent-child relationship with the minor child because he had not been actively involved in her care and was not attuned to her needs. See *In re CR*, 250 Mich App at 196-197. The minor child was progressing in her placement with her maternal grandmother, who had been her primary caregiver for 15 months, was committed to providing for the minor child's needs, and was willing to adopt her. See *In re VanDalen*, 293 Mich App at 141. Although there was evidence presented to support that respondent and the minor child shared a bond and that termination could affect her negatively, termination of respondent's parental rights was necessary for the minor child to gain the stability that she needed and respondent could not provide. See *In re LE*, 278 Mich App 1, 29-30; 747 NW2d 883 (2008). The trial court indicated in its ruling that while respondent clearly loved the child, it was in the child's best interest to terminate respondent's parental rights. Based on a review of the record, the trial court correctly concluded that terminating respondent's parental rights was in the minor child's best interest and, thus, it did not clearly err. MCL 712A.19b(5); *In re HRC*, 286 Mich App at 459.

Affirmed.

/s/ Joel P. Hoekstra
/s/ Jane E. Markey
/s/ Amy Ronayne Krause